

KENNETH COLE

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KENNETH COLE, : C.A. No.:
BRIGITTE L. BROWN, : 05-270 KAJ
Plaintiffs, :
v. :
DELAWARE TECHNICAL AND :
COMMUNITY COLLEGE, :
Defendant. :

Deposition of KENNETH COLE, taken pursuant
to notice before Tanya M. Congo, a Notary Public and
Certified Shorthand Reporter, at the offices of
Morris, James, Hitchens & Williams, LLP, 222 Delaware
Avenue, 10th Floor, Wilmington, Delaware, on Tuesday,
February 7, 2006, beginning at approximately 1:05
p.m., there being present:

APPEARANCES:

MARGOLIS, EDELSTEIN
1509 Gilpin Avenue
Wilmington, Delaware 19806
BY: LORI A. BREWINGTON, ESQUIRE
Attorney for Plaintiffs

MORRIS, JAMES, HITCHENS & WILLIAMS, LLP
222 Delaware Avenue, 10th Floor
Wilmington, Delaware 19899
BY: DAVID H. WILLIAMS, ESQUIRE
Attorney for Defendant

Also present: Brigitte L. Brown
Paul Morris

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1 KENNETH COLE, having first been duly
2 sworn according to law, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. WILLIAMS:

6 Q. Mr. Cole, have you ever been deposed
7 before?

8 A. No.

9 Q. Have you testified in any kind of a Court
10 proceeding?

11 A. Yes.

12 Q. And when was that?

13 A. When, 2004 or 2004. I'm not sure.

14 Q. What Court was it?

15 A. I'm temporary, part time, so I have a
16 business. So the business is into employment
17 screening and providing landlord/tenant screening.
18 So it was probably a landlord/tenant issue, and we
19 was representing -- we also do property management.
20 So we was probably representing the landlord.

21 Q. As you know, I represent the Defendant in
22 this case?

23 A. Uh-huh.

24 Q. I'm going to ask you a series of

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1 questions. You were here yesterday for the
2 deposition of Brigitte Brown. So I think you
3 probably have an understanding of the process; is
4 that fair to say?

5 A. Yes.

6 Q. As I said yesterday, if I ask a question
7 and you don't understand the question, please tell me
8 that you don't understand and I'll try to rephrase
9 the question for you.

10 If you answer the question, I'm going
11 to assume you did understand the question and your
12 answer is responsive.

13 If you want to take a break at any
14 time for any reason, let me know and we'll take a
15 break.

16 When I ask a question during the
17 course of the day, your response has to be audible so
18 that the Court Reporter can hear your response.

19 What is the highest level of education
20 that you've completed?

21 A. I have a four-year degree, four-year
22 engineering degree from Widener University.

23 Q. When did you secure that degree?

24 A. 1992, maybe '93. It was night school, so

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1 I can't recall, but I do have a four-year engineering
2 degree.

3 Q. Do you have any post-secondary education
4 other than what you've received at Widener?

5 A. No.

6 Q. So I take it then that you have not been
7 back to school since 1992?

8 A. No, I've taken some business-related
9 seminars and courses. I've taken an executive
10 management course sponsored by the SBA, the Small
11 Business Association.

12 Q. Was that a one-day seminar?

13 A. No, it was a four-day. I think it was
14 four or five days.

15 Q. And when was that?

16 A. I don't recall. If I had to take a guess,
17 maybe 2001, summer, summer of 2001.

18 Q. I'm going to trace your employment
19 history, and as I'm asking this I understand that you
20 have a business apart from -- we'll get to that, but
21 apart from the business that you currently have, and
22 as I understand, have had for a number of years now,
23 what was your first job after graduating from high
24 school?

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1 A. My first job was in a factory in
2 Philadelphia.

3 Q. How long did you have that job?

4 A. When?

5 Q. When and for how long?

6 A. '73, maybe, for about three or four years,
7 maybe.

8 Q. What did you do after that?

9 A. Went in the military.

10 Q. How long were you in the military?

11 A. In the military from '74 to -- regular
12 Army, '74 to '77. And I came out and I was in the
13 Reserves. And from '77 to about '83 -- '83, 1983.

14 Q. You were back in the regular Army or you
15 were still in Reserves from '77 to '82 or '83?

16 A. No, from '73 to '77, or '74 to '77, it was
17 regular Army. From '77 to about '82 or '83 it was
18 the Army Reserves, in conjunction with some part-time
19 work and also going to school at Community College of
20 Philadelphia.

21 Q. And how far did you go in Community
22 College during that time frame?

23 How many courses did you take? What
24 degree, if any, did you --

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1 A. '78 to '80 I have -- I graduated with an
2 associate's degree in electronic engineering
3 technology.

4 And I went to accounting, I think,
5 prior to that, a few years prior for accounting for
6 about a year at the Palmer School of Business for
7 about a year, like a trade -- a trade school.

8 Q. During the time that you were in the
9 Reserves, were you also working and going to school?

10 A. Yes. I stated that, yes.

11 Q. Take us forward to the next job that you
12 had?

13 A. Could you repeat.

14 Q. What was your next job after --

15 A. After the military?

16 Q. -- the military?

17 A. I started with a company, PECO Energy. It
18 was Philadelphia Electric at the time. They changed
19 the name to PECO Energy, and now they changed the
20 name to Exelon Corporation.

21 Q. What was your job at PECO?

22 A. I had various jobs. I started in a Power
23 Plant with an associate degree. And I was what they
24 called a Technical Assistant.

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1 Then I became a Outage -- not a
2 manager, supervisor, managing data entry clerks that
3 would enter data into the mainframe computer at that
4 time.

5 And Outage Planning would basically --
6 I was managing the data entry clerks that would enter
7 data, and a part of that was they would have outage
8 -- what they called outages which was no more than
9 taking a unit offline and scheduling the work using a
10 planning software at that time. And it was premised
11 -- it's a planning tool.

12 Q. And you said you supervised some other
13 employees in that job?

14 A. Two -- two data entry clerks. I think it
15 was two data entry clerks. Kind of go back in the
16 brain archives there.

17 Q. What other positions did you hold at PECO?

18 A. From there, because of upward mobility, I
19 was requested to do something different. So I would
20 transfer from the Power Plant in Eddystone, and went
21 to 23rd and Market, and worked as a -- I worked on a
22 project team, that they -- the company was looking at
23 integrating their business systems, mainly in the
24 Material Management, Purchasing System and Accounts

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1 Payable.

2 They were looking at -- it was sort of
3 integrated, and they wanted to have electronic -- I'm
4 sorry, it was segregated, and we wanted to -- they
5 wanted to integrate it to make it a process that was
6 pretty much electronic opposed to manually.

7 From there I went over to Financial
8 Planning -- Financial Analysis Group, and I was a
9 Financial Analyst.

10 From there I went to Marketing. I
11 transferred from 23rd and Market to Valley Forge
12 area, and I was a Marketing Analyst.

13 The company was faced with
14 deregulation, so they created Exelon and I was part
15 of the Exelon Corporation to do the Marketing Analyst
16 to get some business, bring in new businesses for the
17 corporation.

18 Q. Was that the last position you held with
19 PECO?

20 A. Yes.

21 Q. When did you leave your employment at
22 PECO?

23 A. 1998.

24 Q. Why did you leave?

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1 A. I was -- the company went through a
2 downsizing in 1994 and 1998, and I was downsized out.

3 Q. What did you do next by way of employment?

4 A. By way of employment?

5 Q. Yes.

6 A. I always had a backup plan. The backup
7 plan was investing in real estate. So I had the
8 investment in real estate. I always believe that you
9 -- in life you have to have a Plan A and a Plan B.
10 So my Plan B was always the real estate.

11 So I managed the real estate and did
12 some part-time stuff to supplemental the income.
13 Like I worked for -- did some volunteer stuff at the
14 Census Bureau. Seen an ad for Student Enrichment
15 Coordinator at Delaware Technical and Community
16 College. I applied for that. I'm still there. I'm
17 still here.

18 Q. What was your start date with the college?

19 A. November of '99, somewhere around there.

20 Q. You briefly referred earlier to the
21 business that you operate in addition to your
22 employment by the college. When did you start that
23 business?

24 A. About '92, '93. 1992, '93.

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1 Q. During your years of employment by the
2 college, you've continuously operated that business
3 in addition to working for the college?

4 A. Yes.

5 Q. How many employees do you have?

6 A. Right now?

7 Q. Yes.

8 A. One, but we hire summer help when needed,
9 and a secretary when needed, and consultants because
10 sometimes we do quarterly inspections, so we'll hire
11 consultants to do the quarterly inspections.

12 Q. Describe, at least generally, the nature
13 of the business?

14 A. Like I said before, it's a -- we're a
15 credit reporting agency. It started off with real
16 estate investment, and we are now a credit reporting
17 agency, and we provide background screening,
18 employment screening, credit checks, criminal
19 reports, criminal background checks, to the
20 government, to industry, local, federal government,
21 and corporations.

22 Q. Is the business a corporate entity?

23 A. Yes.

24 Q. Is it wholly owned by you?

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1 A. No.

2 Q. Do you have partners, or other people that
3 have an equity interest?

4 A. Yes.

5 Q. Are they actively involved in the business
6 as well?

7 A. Part time.

8 Q. And you're engaged in that business part
9 time?

10 A. Yes.

11 Q. Over the years -- you're still employed by
12 the college today?

13 A. Yes.

14 Q. Over the years that you have been employed
15 by the college, have you devoted about the same
16 amount of time to this business on average over those
17 years, or has it varied from year to year and month
18 to month?

19 A. It varies from year to year and month to
20 month.

21 Q. Let's take 1995. Can you approximate how
22 much time you devoted to your outside business during
23 1995?

24 A. In the year of 1995?

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1 Q. Yes.

2 A. An educational guess, I was on about 29
3 hours a week at Del Tech, come to the business about
4 2:00, 2:30. Sometimes go from that time till 6
5 o'clock, 7 o'clock, 8 o'clock, or 9 o'clock, 10
6 o'clock. Some days 5:30, some days 10:30. It
7 varied. It depends on the work, you know. When I
8 walk into the office it depends on the workload and
9 what kind of issues and concerns we had to -- I had
10 to manage.

11 Q. Would it be fair to say on average you
12 devote 3 1/2 to 5 or 6 hours a day to your business?

13 A. It's hard to say. I mean, I never thought
14 about averaging the time. I would like to average a
15 couple hours a day because the business is fairly
16 simplified, meaning that our clients pretty much go
17 to our website and download credit reports or
18 criminal reports. And if they have issues, I have to
19 address those issues, but they're not many.

20 But there's another part of the
21 business. The real estate business may require some
22 time. So, I mean, it's hard to say. I mean, to give
23 you a number it wouldn't be fair to me because it may
24 not reflect the true hours that I put into the

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1 business.

2 Q. From the outset of your employment by the
3 college, you've been part time; isn't that correct?

4 You're a part-time employee at the
5 college?

6 A. Yes.

7 Q. Meaning no more than 29 hours a week with
8 -- I understand there have been some exceptions to
9 that, but generally speaking?

10 A. Yes.

11 Q. And is it not also correct that you have
12 never applied for a full-time position at the
13 college?

14 A. Yes.

15 Q. Would it also be fair to say that given
16 your outside business interest that you've described,
17 that you have not had a desire to be a full-time
18 employee of the college?

19 A. It depends on what's available. If, for
20 instance, the Special Programs Director position
21 interests me, and I would have to make a decision,
22 analyze where the business is and who can manage that
23 business, and what the income level of the position
24 like a Special Program Director would generate. What

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1 kind of income would it generate, and there would
2 have to be an evaluation to determine what to do.

3 Q. So you would look at a posting and look at
4 the position and make a determination of whether you
5 had an interest or didn't have an interest in that
6 position?

7 A. Oh, absolutely.

8 Q. And the fact is that, as you said a few
9 minutes ago, you have not applied for a full-time
10 position --

11 A. Correct.

12 Q. -- at the college? All right.

13 I assume when you worked at PECO at
14 the various jobs that you described, you did not work
15 with youth-type programs. You worked with adult
16 employees?

17 A. Yes.

18 Q. You said, at one point you had the
19 responsibility of managing a couple of clerks?

20 A. Uh-huh.

21 Q. In the other jobs that you described at
22 PECO, to what extent, if at all, did you have the
23 responsibility of supervising and managing employees?

24 A. That was the -- at PECO?

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1 Q. Yes.

2 A. That was the only time at PECO.

3 Q. And apart from PECO and apart from your
4 experience with the college, are there other
5 positions of employment that you've occupied which
6 involved the responsibility of supervising and
7 managing employees?

8 A. Absolutely.

9 Q. And what was that?

10 A. I put nine years in the military, and from
11 -- I left the military as an E-7. I was a Sergeant
12 First Class. In basic training I was a squad leader
13 pushing 16-, 17-year-olds. And, then made corporal
14 -- not corporal, it was an E-4. It wasn't a
15 corporal, squad leader, another squad leader. And,
16 then, E-5. I received accelerated promotions in the
17 military.

18 And when I went in, I think I was 21,
19 and 18-year-olds coming in, I had to manage those
20 guys. And, then I became a commo sergeant in the
21 Commo Shop.

22 Q. During the time that you've been employed
23 by the college, have you taken any opportunity to
24 participate in professional development

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1 opportunities?

2 A. No.

3 Q. You have had opportunities, I assume?

4 A. Well, you get these -- I'm a part-time
5 employee. You've got to realize that the nature of a
6 part-time employee -- as I mentioned to you earlier,
7 I attended an executive management course in Atlanta,
8 Georgia. I didn't mention the state or the city.
9 But I've taken opportunities, but not at PECO.

10 Q. Well, then --

11 A. I'm sorry. Not at Del Tech.

12 Q. Have you attended any TRIO-related
13 conferences?

14 A. Yes.

15 Q. What one's that?

16 A. Well, early in the stage when I first
17 started, they had the annual TRIO conferences in
18 Dover. I attended a few.

19 We participate in TRIO Day. We stand
20 out in the entrance of the college and sort of
21 promote the different programs on the TRIO. I always
22 participate in that.

23 Q. Are there TRIO conferences that you have
24 had an opportunity to participate in but have passed

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1 on those opportunities?

2 A. Well, if I passed it was due to my
3 schedule, restricted to 29 hours per week, in trying
4 to maintain the duties of Student Enrichment
5 Coordinator.

6 Q. Are you saying that if attending a
7 conference involved devoting more than 29 hours a
8 week, that you didn't -- that's why you didn't attend
9 conferences?

10 A. Repeat that.

11 Q. If attending a TRIO conference would
12 involve devoting more than 29 hours a week to
13 college-related activities, you would not do so; is
14 that what you're saying?

15 A. No, that's not what I'm saying. I don't
16 think I've ever been invited to a TRIO conference.
17 The preference always went to the full-time employees
18 because of, what I recall, budgetary reasons.

19 Q. Have you taken any college classes since
20 you've been employed by the college?

21 A. At Del Tech?

22 Q. Yes.

23 A. No.

24 Q. Have you taken any certificate programs?

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1 A. At Del Tech?

2 Q. Yes.

3 A. No.

4 Q. Mr. Cole, I'm going to hand you a document
5 that's identified as Brown-Cole 2 and 3, and ask if
6 you can identify that document?

7 A. (Witness perusing document.)

8 Q. Can you identify it?

9 A. Oh, I'm sorry. Yes.

10 Q. Did you prepare it?

11 A. Yes.

12 Q. I assume you prepared it on or about April
13 2nd --

14 A. Yes.

15 Q. -- 2003?

16 A. Yes.

17 Q. And was this submitted to the Delaware
18 Department of Labor?

19 A. I think so. I'm quite sure it was, but --
20 yes, I'm quite -- pretty -- about 99 percent sure it
21 was submitted.

22 Q. Now, in the second full paragraph, the
23 last sentence talks about --

24 A. First page?

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1 Q. First page. -- your view and/or the view
2 of REDACTED , in that she was being harassed,
3 and you say that she also stated she feels that 90
4 percent of the harassment and retaliation is
5 precipitated by their desire to pro-actively seek and
6 harass Ken.

7 Do you see that?

8 A. Yes.

9 Q. This is what REDACTED reported to
10 you about her feeling?

11 Is that what this represents?.. It's
12 what she reported to you about her feelings?

13 A. No, that's what she attests to when
14 presented to her.

15 Q. Well, did you question REDACTED
16 about that subject?

17 A. No, we all felt that we were being
18 retaliated against. And --

19 Q. I understand what you may have felt, but
20 this sentence talks about what she stated she felt.
21 That this is what she reported to you as to her
22 feelings?

23 A. At one time. I don't know if this was the
24 particular time, but it was a compilation that was

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1 like compounded. And when we got to this point here,
2 she just signed off on it. She may not have said at
3 that particular time that she signed off on it, but,
4 yes, it was said at one time.

5 Q. With respect to the way in which travel
6 requests were submitted, which is the last bullet
7 point on the first page --

8 A. Uh-huh.

9 Q. -- it talked about instead of blanket
10 requests, as you did in the past, she wants
11 individual requests, referring to Ann Del Negro. Do
12 you see that?

13 A. Last paragraph?

14 Q. Yes.

15 A. Yes.

16 Q. Do you know whether Ann Del Negro was
17 simply asking you to comply with a policy of the
18 college?

19 A. Do I know whether she was asking that?

20 Q. Yes.

21 A. That didn't come directly via Ann Del
22 Negro. It came via REDACTED .

23 Q. Well, I take it from this statement that
24 you prepared that REDACTED communicated to you

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1 Ann Del Negro's request; is that correct?

2 A. Yes.

3 Q. And my question is, do you know whether
4 Ann Del Negro is simply asking that the people in
5 your program comply with college policy with regard
6 to the issue --

7 A. I can't answer that. I can't answer what
8 Ann Del Negro -- what her intent is. All I can
9 express is what I felt at that time.

10 Q. Mr. Cole, I didn't ask about her intent.

11 A. Okay.

12 Q. Do you know what the college policy is on
13 travel request forms?

14 A. No.

15 Q. So you don't know one way or the other
16 whether Ann Del Negro was simply saying, this is the
17 policy, follow the policy?

18 A. No.

19 Q. And you apparently also were troubled by
20 the fact that Ann Del Negro was inquiring as to why
21 it is that you had to start at 7:30 a.m.?

22 A. Yes.

23 Q. And is it correct that you would park your
24 personal car at a college parking lot at the

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1 Wilmington campus, and, then walk over to 9th and
2 French Streets to pick up a state car?

3 A. Yes.

4 Q. Is that because no vehicle at the college
5 was available to you, or is that simply what you
6 preferred to do?

7 A. From experience in the past, vehicles
8 weren't too clean and presentable at the Del Tech
9 site.

10 Q. So then would it be fair to say that there
11 were vehicles at the Delaware Tech site, and you
12 didn't think they were sufficiently clean and
13 presentable?

14 A. Yes. And the Program Manager at the time
15 didn't have a problem with that, which was REDACTED
16 Redacted.

17 Q. Would it also be fair to say that it took
18 additional time to go through the process of driving
19 to the Wilmington campus and, then walking -- what is
20 it, how many blocks -- six or seven blocks to 9th and
21 French?

22 A. Additional time?

23 Q. Yes, as opposed to simply taking a vehicle
24 from the college campus?

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1 A. It's obvious. They had people standing
2 around and talking and conversating for 10, 15
3 minutes, 20 minutes in the hallways. That takes
4 additional time.

5 Q. Answer my question. About how long did it
6 take you to walk up --

7 A. I said, yes.

8 Q. How long did it take you to walk up to 9th
9 and French Street from --

10 A. How long?

11 Q. Yes.

12 A. I have no idea. Probably 5, 10 minutes.
13 I'm a fast walker.

14 Q. How many blocks is it?

15 A. Four from 8 is 4. Four blocks.

16 Q. Is the college on 10th Street?

17 A. Shipley.

18 Q. So it's a couple blocks over and five
19 blocks up?

20 A. Yeah. I don't count the blocks. Based on
21 your figures, yes.

22 Q. Well, tell me if I'm incorrect.

23 A. Yeah. I said, yes. Again, my supervisor
24 didn't have a problem with that at that time and

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1 prior to that time.

2 Q. I've placed before you a document that is
3 Bates stamped Brown-Cole 4 through 6.

4 Did you prepare this document?

5 A. Yes, I did.

6 Q. I'm not trying to confuse you. These
7 documents are out of chronological sequence, but it's
8 the order in which I received them in the production
9 from your counsel. This is actually January 3rd of
10 2002. I assume it was prepared at that time?

11 A. This document was prepared earlier. This
12 may be a copy that went over to the Department of
13 Labor for an update.

14 Q. Well, who put that date on?

15 A. I did.

16 Q. You're saying it was prepared sometime
17 prior to January --

18 A. Well, the same information, is what I'm
19 saying. It's not so much -- this looks like a
20 document that went to Larry Miller in conjunction
21 with the grievance, and was updated to the Department
22 of Labor with the same information and maybe
23 additional information with a different date.

24 Q. This document, among other things, talks

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1 about the change in your working hours?

2 A. Yes.

3 Q. As I understand the Complaint in this
4 action, you claim that the change in your working
5 hours was in retaliation for engaging in protected
6 activity?

7 A. I'm sorry.

8 Q. For filing a charge?

9 A. Yes.

10 Q. And do you know what the college's policy
11 is with respect to the starting time for employees at
12 your campus?

13 A. No, not at the time when I started. I
14 made an agreement with REDACTED , and we talked
15 about me being a temporary/part-time employee. And
16 we talked about somewhere in the neighborhood of 8:00
17 to 2:00.

18 Q. And do you have an understanding as to
19 whether REDACTED had authority to enter into
20 such an agreement with you; that is to say, a
21 deviation from the starting time?

22 A. I felt that she had the same authority to
23 hire me. If she had the same authority to hire me, I
24 kind of felt she had the same authority to set my

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1 time.

2 Q. Have you subsequently become familiar with
3 the college policy as to who has the authority to --

4 A. It depends on -- I've seen documentation
5 at the website where it says, from 8:00, start time
6 is 8 o'clock a.m. I mean, I don't have -- it may not
7 be in your documentation, but at one time I did see,
8 and probably could generate a copy that the starting
9 hours were from 8 o'clock.

10 Q. Mr. Cole, as of the time that your start
11 time was changed to 8:30, do you know whether the
12 Campus Director established 8:30 as a start time for
13 employees at your campus?

14 A. No, I -- clarify that for me before I
15 answer that.

16 Q. When was your starting time changed to
17 8:30?

18 A. Around September of 2002.

19 Q. As of September of 2002, do you know
20 whether the Campus Director established 8:30 as the
21 start time for the employees at that campus?

22 A. That's not -- that's hard to answer. I
23 know that my coworkers were coming in, one at 8:30,
24 one at 9 o'clock, and myself at 8 o'clock.

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1 So how am I supposed to assume the
2 Campus Director's starting hours?

3 Q. Mr. Cole, I'm not actually asking you to
4 assume anything. I'm asking you -- let me ask it to
5 you this way: Is it your understanding that as of
6 September of 2002, the Campus Director had the
7 authority and responsibility to determine the
8 starting time for employees at your campus?

9 Or don't you know?

10 A. Well, I'm not real sure what you're trying
11 -- the question you're asking. If you're saying that
12 REDACTED said that the Campus Director said the
13 office hours are 8:30, yes. It came from management
14 that the office hours can -- you can't start at 8
15 o'clock anymore, you have to start at 8:30.

16 Is that the question you're asking?

17 Yes.

18 Q. Mr. Cole, my question is do you know, as
19 of September of 2002, whether the Campus Director
20 established 8:30 as a start time?

21 MS. BREWINGTON: Objection.

22 MR. WILLIAM: On what grounds?

23 MS. BREWINGTON: Asked and answered.

24 BY MR. WILLIAMS:

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1 Q. You can answer the question.

2 A. I don't know.

3 Q. You don't know?

4 A. I'm not real clear on your question.

5 Q. So you can't tell me one way or the other
6 whether what was happening here was simply that the
7 college was enforcing a policy which had not been
8 enforced in the past?

9 A. Yes.

10 Q. You don't know?

11 A. No, all I'm saying is that I received
12 notice that there was some change in my hours, and I
13 concurred.

14 Q. I'm handing you a document that's
15 identified as Brown-Cole 7 through 14, and ask was
16 this document prepared by you?

17 A. Yes.

18 Q. Was it submitted to the Delaware
19 Department of Labor?

20 A. Yes, I think so.

21 Q. Did you provide it to anyone other than
22 the Delaware Department of Labor?

23 A. No.

24 Q. Is that also true --

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1 A. I'm sorry. The firm. I think the firm
2 may have received it.

3 Q. Your counsel in this case may have
4 received it; is that what you're saying?

5 A. Right. But see, I'm not -- so many
6 documents that I'm not sure. I think so.

7 Q. Would that also be true of the first two
8 documents I asked you about, namely that they were
9 supplied to the Delaware Department of Labor, and
10 other than providing them to your counsel, were they
11 supplied to anyone else?

12 A. I'm sorry. Would you repeat that.

13 Q. These first two documents that we talked
14 about that you also prepared.

15 A. Uh-huh.

16 Q. You said that they were submitted to the
17 Delaware Department of Labor?

18 A. I said, 99.9 percent I think it is.

19 Q. And other than the Delaware Department of
20 Labor and your attorneys in this case, did you give
21 them to anybody else?

22 A. No.

23 Q. I'm handing you a document that's marked
24 Brown-Cole 15 through 18.

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1 A. Okay. So you're not going to reference to
2 this one here?

3 MS. BREWINGTON: He may go back to
4 that.

5 THE WITNESS: Okay. You may go back
6 to this one. Okay.

7 BY MR. WILLIAMS:

8 Q. Did you prepare this document?

9 A. Yes.

10 Q. And is this also an update that you
11 prepared and you believe that you provided to the
12 Delaware Department of Labor?

13 A. Yes. October 15th, yes.

14 Q. Did you provide it to anyone other than
15 the Delaware Department of Labor?

16 A. I'm not sure. I don't know all the
17 paperwork I gave the firm, and the firm, meaning
18 counsel.

19 Q. I'm assuming that you gave it ultimately
20 to your counsel.

21 A. Okay. Right. That's it, you know.

22 Q. If you'd go back to the first document.

23 A. Which one?

24 Q. Identified as Number 2 and 3. On the

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1 second page --

2 A. Okay. I'm sorry.

3 Q. The second page --

4 A. No, which one?

5 Q. Brown-Cole 3 in the right-hand corner.

6 A. Oh, okay.

7 Q. The bullet point there, that paragraph --

8 A. Uh-huh.

9 Q. -- there's a statement there that, why do
10 I have to start at 7:30 a.m. to get there. Other
11 programs under Ann Del Negro starts at 7:30.

12 Which other programs are you referring
13 to?

14 A. Just let me read the statement here.
15 Okay. Upward Bound Classic, Educational Talent
16 Search.

17 Q. Which employees and which programs are
18 starting at 7:30?

19 A. I'm not saying -- I'm not implying they're
20 starting. Here's my implication here, is that as far
21 as I knew at that time, all the programs were allowed
22 to start at 7:30 to accomplish their mission or their
23 goals in terms of school business.

24 What I'm implying here is that when I

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1 asked -- or when our program asked to start at a
2 different time, like 7:30 or whatever, we were always
3 -- I was interrogated after 2002.

4 Q. Well, that wasn't the question. My
5 question was a simple one. I said, what other
6 programs under Ann Del Negro started at 7:30?

7 You told me the Upward Bound Classic
8 and Educational Talent Search?

9 A. Yes.

10 Q. I asked what employees in those programs
11 started at 7:30. That was my question.

12 A. The school visits at that time. I don't
13 know the names of the employees at that time. Let me
14 think. I can't recall all their names.

15 Okay. I can give you Tonia Conley,
16 Daniel Davies, REDACTED at that time.
17 Those are the names that were in that -- those groups
18 at that time. I don't know what goes on today.

19 Q. How frequently did you travel from the
20 college to visit students who were involved in your
21 program?

22 A. I'm sorry. Can you speak up a little bit.

23 Q. How frequently were you on the road
24 traveling for the purpose of visiting students in

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1 your program?

2 A. How frequently. At that time, twice a
3 year.

4 Q. Two days a year?

5 A. No, two periods.

6 Q. And what periods and time frames?

7 A. Okay. October. In the Fall, October.

8 I'd say Fall, early Winter, October to December.

9 Spring. Winter, early Spring, late February, March
10 to about end of April.

11 Q. And during those time frames that you just
12 identified, how frequently -- how many days a week
13 were you on the road visiting students?

14 A. Three to four days per week.

15 Q. During those three to four days a week,
16 would you be out of the office most of the day, half
17 the day?

18 What was the typical situation?

19 A. Sixty percent.

20 Q. Sixty percent of a work day?

21 A. For me. I'm part time. It varies, I
22 guess for others.

23 Q. Did you have personal reasons why you
24 wanted to start at 7:30 or 8 o'clock as opposed to

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1 8:30?

2 A. No, sometimes -- it had nothing to do with
3 personal reasons. It had something to do with the
4 business of the college. Sometimes trying to
5 schedule an appointment to see a student, the
6 counselor'll say, well, this may be the best time to
7 set up an appointment.

8 So if I have to see a student in
9 Philadelphia at 8:30, I'll have to start around 7:30
10 or earlier to get there, to make that appointment.
11 So we pretty much try to satisfy the customer,
12 meaning the counselors and the students. She would
13 look at the schedule, the class schedule, and
14 determine what the best time to see students.

15 Q. So you're saying that sometimes 8:30 would
16 be the best time?

17 A. Yes, sometimes.

18 Q. Sometimes later?

19 A. Yes. And sometimes when the plan is for a
20 7:30 start to go to a Philadelphia school, is not
21 unreasonable.

22 Q. Were you visiting schools in areas other
23 than Philadelphia?

24 A. Yes.

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1 Q. What geographic area would you have
2 students located in?

3 A. For me, because I'm from Philly and knew
4 Philly, Philadelphia. I've been to Pottstown,
5 certain parts of New Jersey. And we try to divide
6 the schools up between the two coordinators. And
7 Maryland -- not back then I don't remember Maryland,
8 but now I know to Maryland.

9 Q. Did you have a desire to be able to get to
10 your other business by 2:00 -- 2 o'clock in the
11 afternoon or 2:30?

12 A. Did I have a desire?

13 Q. Yes.

14 A. I had a desire, but sometimes that didn't
15 happen.

16 Q. But that was your preference, to be able
17 to get to your business by 2:00 or 2:30?

18 A. I had a desire, yes. But sometimes that
19 didn't happen.

20 Q. Was there an issue about asking -- there
21 was a request from upper management that was filtered
22 down through REDACTED concerning a schedule of
23 schools to be visited, was that an issue for you?

24 A. Yes.

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1 Q. And the issue was they wanted like a
2 90-day schedule versus a 30-day schedule; is that
3 correct?

4 A. The issue was they wanted a 30-day --
5 well, let me clarify. Can I clarify referencing the
6 way we used to do it and, then comparing it to the
7 way we do it?

8 Q. Yes.

9 A. Prior to 2002, August of 2002, we
10 submitted -- the secretary would submit a blanket
11 request, a travel request, and on that travel request
12 at the top it would say, to provide academic services
13 to schools, to students, in the States of
14 Pennsylvania, New Jersey, Maryland, or whatever. And
15 that would be dated for 90 days, October, November,
16 December. And, then we'd go off and do our jobs.

17 Somewhere -- sometime around 2002,
18 after August of 2002 that changed. They wanted a
19 calendar. The travel request was out. Anytime you
20 travel you submit a travel request.

21 In addition to the travel request,
22 they wanted -- we heard from REDACTED, Ann De
23 Negro wanted a calendar of events. Then she also
24 wanted the time we went to the school, the time we

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1 left Del Tech, the time we would get to the school,
2 that time, the time that we sit down with the
3 student, write that time down, the time that we would
4 leave the student, put that time down, the time that
5 we would leave the school, put that time down, and
6 the time that we would arrive at Del Tech, put that
7 time down. That's how we were scrutinized.

8 Q. The program that you worked in, was it
9 your understanding that it was funded by a Federal
10 grant?

11 A. Absolutely.

12 Q. And was it your understanding that there
13 was a regular audit conducted of the program?

14 A. The times that I were there, from '99 up
15 until now, I don't recall a Federal audit. I recall
16 a State audit, and the State audit was pretty much
17 based on what we had to go through. We never went
18 through, that I knew of, paperwork concerning how
19 many times we went to the school, did you time in,
20 did you time out. They was more concerned with the
21 eligibility status of students coming to the program,
22 and the monies, the budgetary monies spent.

23 Q. Did you see the audit reports that were
24 generated?

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1 A. I saw the -- which you call -- the
2 deficiency of the different programs.

3 Q. If there were audits conducted other than
4 the audit process you just described, you're not
5 aware of them?

6 A. I'm sorry. Clarify.

7 Q. Is it fair to say that if -- you said the
8 only audits you were aware of were some State audits?

9 A. Yes.

10 Q. If there were other audits conducted, is
11 it accurate to say that you weren't aware of those
12 other audits?

13 A. Yes.

14 Q. And if there were findings of violations
15 that had to be corrected, were you aware of all those
16 findings?

17 A. Like I just said, we were issued the
18 deficiency reports. The deficiencies, it was on
19 maybe a spreadsheet that showed the deficiencies for
20 the TRIO programs.

21 It would sort of list the infractions
22 that were committed, and they were based on
23 eligibility criteria. Did we bring a student into
24 the program that didn't meet the criteria -- criteria

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1 to be in this program.

2 The Federal government is concerned
3 about money.

4 Q. Well, I take it from what you described a
5 few minutes ago, you were being asked to -- you were
6 being held accountable for your time and how you were
7 spending your time, whether it was visiting a
8 student, traveling. Whatever it is that you are
9 spending time on, you were being asked to keep
10 records of that and be accountable for the time that
11 you spent?

12 MS. BREWINGTON: Objection. Compound
13 question.

14 THE WITNESS: I mean, you could say
15 accountability. I call it retaliation and excessive
16 scrutinizing.

17 BY MR. WILLIAMS:

18 Q. So if you were in charge that kind of
19 recordkeeping would not be appropriate or necessary
20 because you just don't think it is?

21 MS. BREWINGTON: Objection. Calls for
22 speculation.

23 THE WITNESS: No, it depends.
24 Consistency. If 1999 I required that type of

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1 paperwork, and, then, 2002 I required the same
2 paperwork from every individual. So it's
3 consistency. Whether I think it's wrong or right,
4 it's consistency.

5 And all I'm saying to you is things
6 changed in 2002.

7 BY MR. WILLIAMS:

8 Q. Do you know whether your Program Manager,
9 REDACTED, was adhering to college policies in
10 every respect, and adhering to the requirements of
11 the grant, the federal grant that funded your
12 program?

13 A. I read the grant. The grant said twice a
14 year.

15 Q. What's the answer to my question? Do you
16 know whether REDACTED was in every respect
17 following college policies in terms of managing you
18 and others in the program and adhering to the
19 requirements of the grant?

20 A. That's not my job. You're asking me
21 something that -- you know.

22 Q. So the answer is, you don't know?

23 A. I don't know.

24 Q. With respect to the move of the Upward